

PRESENTATION TO WATER RESOURCE MITIGATION TASK FORCE



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We manage water resources to meet the needs of people and the natural environment, in partnership with Washington communities.



WATER for PEOPLE, FARMS & FISH

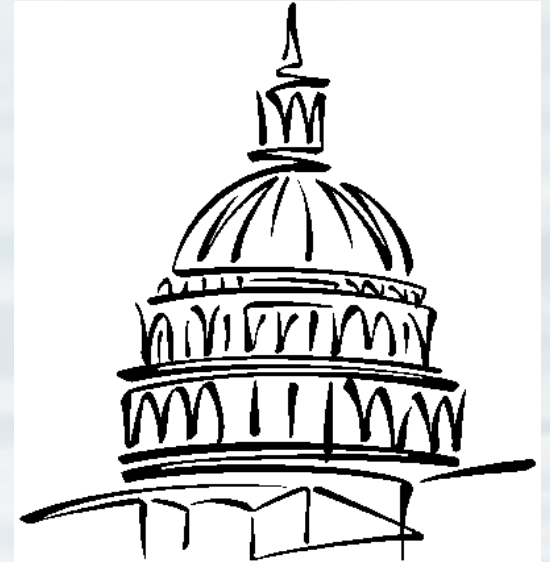
Overview

- Goal of pilot projects
- Permitting process we will use
- Standard of review
- Mitigation sequencing
- Next steps



Task force overall goal

This task force was established to, “Develop and recommend mitigation sequencing process and scoring system to address such appropriations, and to review the Washington supreme court decision in *Foster v. Department of Ecology*, 184 Wn.2d 465, 362 P.3d 9593 (2015).”



Goal of pilot project process

- ESSB 6091, Section 301(8)
- Issue permit decisions for up to five water resource mitigation pilot projects
- Use the pilot projects to inform the legislative task force
- Enable the processing of water right applications that address water supply needs



Water right permit process under pilot



- Water right applicants notify Ecology of their interest in participating (complete!)
- Initial meetings to discuss project concepts, issues to resolve, uncertainties (not complete)
- Applicants must pay for processing through cost-reimbursement process (RCW 90.03.265)

Permit processing, continued

- Applicant's consultant develops proposed mitigation strategy
- Our expectation is that the applicant has full support from affected parties
- Applicant submits draft Report of Examination to Ecology
- Ecology reviews and posts for formal public comment (30 days)
- If needed, modifications are made
- Final decision is posted for ~45 day appeal period

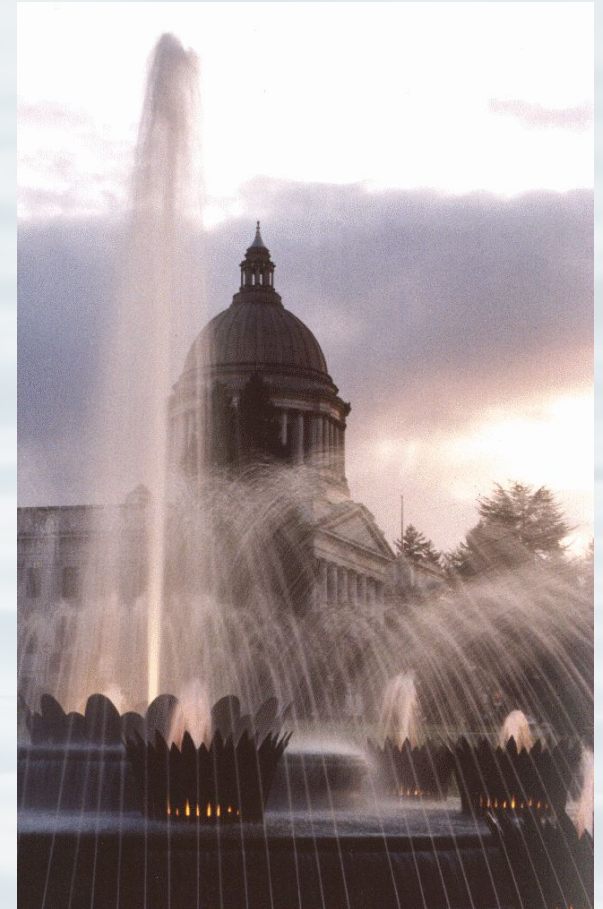


Mitigation Sequencing in ESSB 6091

Sequenced approach

- Primary goal: Avoid impacts
- Where avoidance of impacts is not reasonably attainable, then minimize impacts
- Where avoidance and minimization are not reasonably attainable, then compensate for impacts **by providing net ecological benefits** to fish and aquatic resources

Sequenced mitigation is based on general mitigation strategies established nationally and adopted in Washington by WDFW and Ecology



Mitigation Sequencing

A more comprehensive description of mitigation sequencing is found regulations of the U.S. Council on Environmental Quality (CEQ). The CEQ regulations for implementing NEPA at 40 CFR Section 1508.20 state that mitigation includes:

- (a) Avoiding the impact altogether by not taking a certain action or parts of an action.*
- (b) Minimizing impacts by limiting the degree or magnitude of the action and its implementation.*
- (c) Rectifying the impact by repairing, rehabilitating, or restoring the affected environment.*
- (d) Reducing or eliminating the impact over time by preservation and maintenance operations during the life of the action.*
- (e) Compensating for the impact by replacing or providing substitute resources or environments.*

Standard of review

- Key question: At what point is, “avoidance of impacts is not reasonably attainable?”
- Different for each project
- Function of level of “in-kind” mitigation available
- Will be key information to provide to the committee for policy consideration



Net Ecological Benefit

Interim Guidance issued on June 20

- Describe all the impacts
- Describe any ecological impacts that are not offset in-place and in-kind
- Detailed hydrological analysis, conceptual or numerical model
- Monitoring and evaluation plans
- Scientific sources and methods



<https://fortress.wa.gov/ecy/publications/summarypages/1811009.html>

Next Steps

- Nothing has been submitted yet; anticipate receiving conceptual mitigation approaches in fall
- Could have further discussions with applicants prior to submittal
- Documenting process, including issues, challenges, uncertainties
- Will provide this committee with updates and information for policy consideration

Questions?

Thank you

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